IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

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WRIT PETITION NOS. 13700 of 2001 & 26972 of 2001

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1) W.P.No. 13700 of 2001:

Between:

Chelikani Venata Satya Vara Prasad, S/o.late, Ramachandra Rao
Sri Tirupatamma Gopayya Garla Devasthanam, R/o.Borragudem,
Mylavaram (M), Krishna Dist

..... PETITIONER

AND

1 The Regional Joint Commissioner of Endowments, Multi Zone-I,
Kakinada, E.G.District
2 The Assistant Commissioner of Endowments, Vijayawada, Krishna Dist
3 The Single Trustee -Sri Tirupathamma Gopayya Garla Devasthanam,
Borragudem, Mylavaram Mandal, Krishna Dist
4 Vemi Reddy Sanjeev Reddy, S/o.Venkateswara Reddy,
Chandragudem (V), Mylavaram Mandal, Krishna Dist

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction one on the nature of a writ of certiorari call for the records relating to the orders issued by the Regional Joint Commissioner, Multi Zone-I, Kakinada, in R.P.No.3 of 2001, Dt.23/06/2001 and quash the same.

Counsel for the Petitioner: Mr. P.Yadagiri Rao

Counsel for the Respondent Nos. 1 & 2 : G.P. for Endowments.

Counsel for the Respondent No.3: Mr. Metta Chandrasekhara Rao

Counsel for the Respondent No.4 : Mr. B.Narasimha Sarma;

2) WRIT PETITION NO : 26972 of 2001

Between:

Chelikani Venkata Satya Vara Prasada Rao, S/o.late Ramachandra Rao,
Sri Tirupatamma Gopayya Garla Devasthanam, R/o.Borragudam,
Mylavaram Mandal, Krishna Dist

..... PETITIONER

AND

1 The Regional Joint Commissioner, Multi Zone-I,
Endowments Department, Kakinada, East Godavari Dist
2 The Executive Officer, Sri Tirupatamma Gopayya Garla Devasthanam,
Borragudem, Mylavaram Mandal, Krishna Dist
3 The Assistant Commissioner, Endowments Department,
Vijayawada
4 Boda Jyothi, W/o.Yesu Ratnam,
Borragudem, Mylavaram Mandal, Krishna Dist
5 Vemireddy Sanjeeva Reddy, S/o.Venkateswara Reddy,
Borragudem, Mylavaram Mandal, Krishna Dist.
6 Balagani Srinivasa Rao, S/o.Jamalaiah,
Borragudem, Mylavaram Mandal, Krishna Dist
7 Nakkaboina Nagaraju, S/o.Venkateswarlu,
Borragudem, Mylavaram Mandal, Krishna Dist

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction one on the nature of a writ of certiorari calling for the records relating to the orders passed by the Regional Joint Commissioner, Multi Zone-I Endowments Department, Kakinada, East Godavari District in R.P.No.18 of 2001 on his file and quash the same.

Counsel for the Petitioner: MR.P.YADGIR RAO

Counsel for the Respondent Nos. 1 & 3 : GP FOR ENDOWMENTS

Counsel for the Respondent No.2: Metta Chandrasekhara Rao.

Counsel for the Respondent Nos.4 to 7: Mr. B.Narasimha Sarma;

The Court made the following :

C O M M O N O R D E R :

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Heard both sides. The petitioner in both the Writ Petitions, claiming to be member of the founder's family, filed these two Writ Petitions, *inter alia,* seeking to assail the orders passed by the first respondent in Revision Petition nos. 3 of 2001 and 18 of 2001 dated 23.06.2001 and 23.11.2001 respectively on the claim made by the petitioner. Earlier, on enquiry, the competent authority, namely the Assistant Commissioner of Endowments, passed orders on 09.10.2000 recognising the petitioner as member of founder's family of the temple, whereupon the R.P.No.3 of 2001 was filed by the contesting respondent, which was disposed of by the impugned order dated 23.06.2001. During pendency of the R.P., when *status quo* orders dated 23.02.2001 were subsisting, the Assistant Commissioner of Endowments appointed board of trustees, against which the petitioner filed R.P.No.18 of 2001 before the first respondent, which was disposed of on 23.11.2001. The main grievance of the petitioner is that in either of these two revisions, the authority namely the Regional Joint Commissioner of Endowments, Kakinada, did not give any prior notice or opportunity before passing the orders.

On consideration of the submissions made and perusal of material, it is seen that neither of the orders refers to issuance of any notice or fixing of date for hearing or having heard the petitioner before passing the said orders. In fact, R.P.No.18 of 2001, which was disposed of later, shows that the said authority issued remarks on 13.06.2001, whereas it is now submitted in the counter affidavit that notices were issued on 23.02.2001, 24.03.2001 and also on 08.06.2001 i.e. prior to the receipt of the remarks dated 13.06.2001 from the Assistant Commissioner of Endowments. However, there is nothing on record or any averment in the counter affidavit to show that subsequent to the remarks dated 13.06.2001, any notice was given or any date of hearing has been fixed. Apparently, both the Revisions have been disposed of without hearing the petitioner and without even issuing notice for hearing to the petitioner, which is in the teeth of the

principles of natural justice. Even section 92 (2) of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987, specifically provides that before disposing of such revision, an opportunity has to be given to the parties concerned. In the circumstances, it is to be held that both the impugned orders are liable to be set aside for want of hearing and for not giving any notice and opportunity.

The Writ Petitions are, accordingly, allowed and the matter is remitted back to the Regional Joint Commissioner of Endowments, Kakinada for fresh disposal on merits after giving notice and opportunity to both sides. No costs.

(B.Prakash Rao,J.)

04.11.2004

DRK

Rule Nisi has been made absolute.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice,

On Thursday, the fourth day of November, 2004.

…. Registrar

/True copy/

Section Officer

Copy to:

1 The Regional Joint Commissioner of Endowments, Multi Zone-I, Kakinada, E.G.District
2 The Assistant Commissioner of Endowments, Vijayawada, Krishna Dist
3 The Single Trustee -Sri Tirupathamma Gopayya Garla Devasthanam, Borragudem, Mylavaram Mandal, Krishna Dist

4 The Executive Officer, Sri Tirupatamma Gopayya Garla Devasthanam, Borragudem, Mylavaram Mandal, Krishna Dist

5 Two CCs to the G.P. for Endowments, High Court of A.P., High Court buildings, Hyderabad (o.u.t.)

6 Two CD copies.